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| 10/563,889 | 04/02/2007 | Wolfgang Paes | STUR-43 | 7204 |
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| Scott R. Foster Pandiscio & Pandiscio, P.C. 470 Totten Pond Road Waltham, MA 02451-1914 | | | | |
| EXAMINER | | | | |
| KAYES, SEAN PHILLIP | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/563,889

Applicant(s)

PAES, WOLFGANG

Examiner

SEAN KAYES

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/9/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Objections

1. Claims 1-22 are objected to as failing to clearly identify the invention.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

2. Claims 2-7 define limitations of the course to be run. However, claim 1 clearly indicates that the nature of the course does not define claim limitations as "a number of selectable different out-and-back courses" can be utilized with the device. Only two elements of the system are positively recited in claim 1, the devices and a timing clock. The devices are only required by claim 1 to be located between some points. If applicant intends the spatial relationships of the course to define claim limitations then the claims should be amended to make these desired spatial relationships clear.
3. Claim 7 recites "the distances between the places at which the measurement pulse from the second device is produced for each out-and-back course and the particular turning points are equal." It is not clear what the distance needs to be equal to as only one "second device" need be associated with only one "turning point."

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-17 and 19-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Bianco (US 5241487.)

6. With respect to claim 1 Bianco discloses a measurement system for determining the time that a person needs to run over one of a number of selectable different out-and-back courses, wherein the out-and-back courses are provided with a common starting point that is the a finish point at the same time, and with different turning points that are in different directions from the starting point; said system comprising:

- devices (the "devices" can correspond to 12-23 figure 1 discussed in column 3 lines 29-41 and/or the "devices can correspond to the electric devices of the plurality of cars 50 figure 1 and 60-63 figure 2 discussed in column 2 lines 31-55) placed between the starting and finish point and the turning points to produce measurement pulses when said devices are passed, said devices being connected to communicate with
- a timing clock (234 figure 8) for turning the clock on and off.

7. With respect to claim 2 Bianco discloses a measurement system pursuant to claim 1, wherein distances between the starting and finish point and the individual

turning points are equal to one another (as recited in claim 1 the devices need only be placed between the turning points and the start/finish point. Thus the location of the turning points and/or start/finish point does not define limitations of the structure or spatial relationships between the claimed devices).

8. With respect to claim 3 Bianco discloses a measurement system pursuant to claim 2, wherein there are more than two turning points that lie at corners of an equilateral polygon (As stated in claim 2 the nature of the course does not entail limitations of the devices claimed in claim 1. As recited in claim 1 the device need only be placed between the turning points and the start/finish point).

9. With respect to claim 4 Bianco discloses a measurement system pursuant to claim 1, wherein distances between the devices at which the measurement pulses are produced for each out-and-back course and the starting and finish point are all equal (the distances between the devices of each turn, i.e. 16 to 17 and 18 to 19, etc. are all equal. The distances correspond to the distances between the device at which measurement pulses are produced.)

10. With respect to claim 5 Bianco discloses a measurement system pursuant to claim 1, wherein a first of the devices (12 figure 1) for producing the measurement pulse is associated with the starting and finish point, and a second (16, 17, 18, 19, 20, 21, 22,

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and/or 23 figure 1) of the devices is associated with the turning points of each individual out-and-back course.

11. With respect to claim 6 Bianco discloses a measurement system pursuant to claim 5, wherein the distances between places at which the measurement pulse from the first device is produced for each out-and-back course and the starting and finish point are equal (the disclosed out and back course of Bianco is a loop and thus the out and back distance is always equal. As recited in parent claim 5 the "first of the devices" is associated with the starting and finish point. 12 figure 1.)

12. With respect to claim 7 Bianco discloses a measurement system pursuant to claim 6, wherein the distances between the places at which the measurement pulse from the second device is produced for each out-and-back course and the particular turning points are equal (the distance from element 16 and the corresponding turning point is equal to itself.)

13. With respect to claim 8 Bianco discloses a measurement system pursuant to claim 1, wherein viewed from the starting and finish point, an optically or acoustically detectable signaling device is associated with each turning point , and that the signaling devices can be turned on and off independently of one another by means of a transmitter (column 2 lines 30-55).

14. With respect to claim 9 Bianco discloses a measurement system pursuant to Claim 8, characterized by the fact that only one at a time of the signaling devices can be turned on unpredictably and arbitrarily, while the others cannot (only one device on a car can be activated/deactivated by a given laser beam because interacting with one device will block the line of sight from the device to all other devices.)

15. With respect to claim 10 Bianco discloses a measurement system pursuant to Claim 9, characterized by the fact that the signaling devices can be turned on by a transmitter designed as a random number generator (the nature of the light gate system in combination with the car timing apparatus, 50 and 16-23 figure 1, is random. Noone can predict when the car will enter the gate and when it will leave. Thus the generated timings and corresponding numbers are in fact random to an observer. Thus the system is consistent with the claim terminology.)

16. With respect to claim 11 Bianco discloses a measurement system pursuant to claim 8, wherein the signaling devices (16-23 figure 1; column 2 lines 30-55) are the same as one another and emit the same signals.

17. With respect to claim 12 Bianco discloses a measurement system pursuant to claim 1, wherein the devices for producing the measurement pulses contain contactless trip mechanisms (column 2 lines 30-55).

18. With respect to claim 13 Bianco discloses a measurement system pursuant to Claim 12, characterized by the fact that the contactless trip mechanisms are light barriers (16-23 figure 1; column 2 lines 30-55.)

19. With respect to claim 14 Bianco discloses a measurement system pursuant claim 1, wherein the timing clock is connected to communicate with a display panel (240 figure 8).

20. With respect to claim 15 Bianco discloses a measurement system pursuant claim 14, wherein the devices for producing the measurement pulses, the timing clock, and any display panel, as well as any signaling devices , are portable units that can be set up outdoors and under cover (figures 1-2).

21. With respect to claim 16 Bianco discloses a measurement system pursuant claim 1, wherein the communication connection between the devices for producing the measurement pulses and the timing clock is wireless (column 2 lines 30-55.)

22. With respect to claim 17 Bianco discloses a measurement system pursuant claim 8, wherein the connection between the transmitter and the signaling devices is wireless (column 2 lines 30-55.)

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23. With respect to claim 19 Bianco discloses a measurement system pursuant claim 1, wherein an electrical circuit (figures 8 and/or figure 9) is provided to detect, store, and optionally interpret the individual personal times.

24. With respect to claim 20 Bianco discloses a measurement system pursuant to claim 1, wherein individual components of the measurement system are provided with advertising spaces (50-53 and 42 figure 2 have outer portions capable of use with advertisements.)

25. With respect to claim 21 Bianco discloses a measurement system characterized by the fact that there are claim 1, wherein distance-measuring devices between the measurement points that act together with a receiver module so that a measurement cycle is unleashed activated only at given selected distances between prescribed measurement points (column 3 lines 29-41.)

26. With respect to claim 22 Bianco discloses a measurement system, characterized by the fact that there is claim 1, wherein a barrier that cannot be crossed is disposed between the starting and finish point and a first measurement point (the center portion of the track figure 1 constitutes such a barrier between a start point and at least one other point.)

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27. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

28. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bianco (US 5241487) in view of Sasaki (US 5511045.)

29. With respect to claim 18 Bianco discloses a measurement system pursuant claim 1.

Bianco does not teach a hand token to be picked up and carried by the particular person is associated with each turning point.

Bianco's device is concerned with car racing and as such does not need the devices to be carried by a person.

Sasaki teaches a method and system for timing individual runners of a race.

At the time of the invention it would have been obvious to one skilled in the art to configure Bianco's timing device to be carried by a hand as taught by Sasaki. The reason for doing so would have been to make Bianco's mechanism usable for timing human races as taught by Sasaki.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SEAN KAYES whose telephone number is (571)272-8931. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula Bradley can be reached on (571) 272-2800 ext 33. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SK
3/15/2008

/P/ Austin Bradley/
Supervisory Patent Examiner, Art Unit 2833